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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,107	01/20/2000	Warren E. Friss	23616.01	3969
7590	06/20/2005		EXAMINER	
R Lewis Gable Cowen Liebowitz & Latman PC 1133 Avenue of the Americas New York, NY 10036-6799			PATEL, JAGDISH	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/488,107	FRISS ET AL
	Examiner	Art Unit
	JAGDISH PATEL	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 34-38, 41, 43-52, 54-57 and 59-141 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 34-38, 41, 43-52, 54-57 and 59-141 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. This communication is in response to appeal brief filed 8/30/2004.

In view of the appeal brief filed on 12/29/03, new grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Status of the Application

2. Claims 34-38, 41, 43-52, 54-57 and 59-141 are currently pending of which all claims have been appealed.
3. The examiner has clarified the pertinence of the applied reference(s), objected to claims dependent on canceled claim, added new rejection of certain claims under 112(second) and presented rejection of certain claims on new grounds not included in previous office action. Accordingly, this office action is made a non-final action.

Statute Cited in Prior Action

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4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

5. Claims 34, 36, 46 and 104-105 are objected to because of the following reasons.

Claims 34 and 36: "step b)" should read "step a)".

Claims 104-105: "step c)" should read "step e)".

Appropriate correction required.

6. Claim 46 depends on claim 33, which has been canceled. This claim is not examined.

7. Claims are not presented in numerical order and showing claim status.

Claim Rejections - 35 USC § 112

8. Claim 72, 41, 43-45, 47, 48, 50-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 72 recites the limitation "the number of ordered collectibles" in line 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claims 41, 43-45, 47 and 48 depend upon claim 72 and therefore contain same deficiency as claim 72.

7. Claim 84 recites the limitation "the number collectibles to be allocated". There is insufficient antecedent basis for this limitation in the claim. (Note: claim 81 defines the "number collectibles to be offered" and claim 82 defines the number of collectible ordered. None of which refer to the limitation of claim 84.)

Dependent claim 85 inherits same deficiency.

7. Claim 50 recites the limitation "the allocated collectibles". There is insufficient antecedent basis for this limitation in the claim.

Dependent claim 51 and 52 also inherit same deficiency.

8. claim 56 recites limitation "the purchaser's allocated collectible(s). There is insufficient antecedent basis for this limitation in the claim.

Dependent claim 57 also inherits same deficiency.

Claim Rejections - 35 USC § 102

9. Claims 102,103, 49-51, 56, 57 : are rejected under 35 U.S.C. 102(b) as being anticipated by Woolston.

Claim 102: Woolston teaches a method of facilitating an issuer of collectibles to manage ..the sale of collectibles of a

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predetermined condition ("computerized market", abstract), said method comprising steps of:

a) offering for sale the collectibles (per Woolston, offering of collectibles is communicated by a consignment node to plurality of participants (customers and collectors) col. 2 electronic markets for collectible goods see col. 2 L27-57);

b) allocating selected of the offered collectibles to selected of a potential purchasers;

(noting that allocating of collectibles is inherent because a consignment node offers the collectibles (such as antique pens) see col. 2 L 27-57, in an established electronic market for the collectibles to a plurality of participants (customers and collectors))

c) creating for each of the selected purchasers a record (refer to section "the Sale" at col. 4+);

d) implementing each of steps a)-c) by a programmed computer (see Figures 1-3 which depict implementation of the method).

e) maintaining condition of the collectibles .. (this limitation is interpreted as storing or safeguarding the collectibles as deemed appropriate by the entity holding the collectibles, such as the operator of the collectible nodes or the owner of the collectibles, therefore this step is inherent in Woolston reference(see col. 2 L 44-46) furthermore, specifying the condition of the collectible (col. 3 L 61-66 "condition of the card" etc.) in which the collectibles are

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offered inherently requires maintaining the condition while the collectibles are offered for sale.).

Claim 103: storing the predetermined condition of the collectibles.. (Fig. 13, section 956 "condition", col. 3 L 61-66, condition of the card).

Claim 49: Woolston teaches a method of operating a server (computer 10, Fig. 1) to receive over a network at least one order for collectibles from at least one of a plurality of potential purchasers, said server being programmed to implement said method comprising the steps of.

- a) providing at the server a purchaser history database (purchase records, col. 7 L 12-21);
- b) offering for sale an initial placement of a predetermined number of collectibles (col. 2 L 36-40, ..establish the dominant market for collectible antique pens.., since the consignment node establish a market, inherently it must offer for sale initial offering of the antique pens and since the pens are antique they are of a predetermined number known to the operator of the consignment node, refer also to col. 2 L 49-57) ;
- c) receiving from one of the potential purchasers at least one order for a selected number of collectibles (col. 3 L 25-30, the purchaser order, inherently includes desired number of goods, for example the purchaser may wish to purchase one or more antique pens from the consignment node)
- d) creating in response to the received one order an account in the purchaser history database for its potential purchaser, each account including a record of the purchasing activity of its potential purchaser (sold database 816, and shipped database 820 recited at col. 19 L 36-46).

Claim 50. making a secondary offering for sale at the direction of (the) at least one purchaser (col. 3 L 25-30 ..post a new participant defined offer.., see also col. 12 L59-66, post a new offer and may identify that the good is on the market).

Claim 51. receiving orders from at least one purchaser during said second offering for sale on said secondary market (col. 3

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L 25-30, allow a participant to electronically purchase goods from a consignment node).

Claims 56. updating record of the purchaser ..data indicative of the of the purchaser's allocated collectibles (refer to Fig. 12 "sold" and 'fore sale" database and col. 14 L 57-63).

Claim 57. receiving bids form purchasers during said secondary offering-determining winning bids (refer to discussion of auction as discussed in col. 5 L 46 - end of col. 6).

Claim Rejections - 35 USC § 103

10. (Note: unless otherwise specified, in the analysis of claim limitations the citation of the reference indicated in small brackets following the claim limitation, pertains to the Primary Reference)
11. Claims 34-38, 41, 44, 45, 47, 48, 59-61, 71-84, 86-101, 110-114, 131-141 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woolston (US 6,266,651) and further in view of Bezos et al. (US Pat. 6,606,608) (Bezos).

Claim 71: Woolston teaches a method of facilitating an issuer of collectibles for sale, each collectibles having a predetermined condition ("computerized market", abstract), said method comprising steps of:

- a) offering for sale the collectibles to potential purchasers for a period of time (refer to col. 2 L 36-40,

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"market maker for a particular class of goods", and "establish the dominant market for collectible antique pens")

b) receiving orders from the ordering purchasers (..col. 5 and 6, receiving bids from the ordering purchasers).

d) facilitating steps a)-c) by a programmed computer (see Figures 1-3 which depict computer implementation of the method).

e) maintaining condition of the collectibles .. (this limitation is interpreted as storing or safeguarding the collectibles as deemed appropriate by the entity holding the collectibles, such as the operator of the collectible nodes or the owner of the collectibles, therefore this step is inherent in Woolston reference(see col. 2 L 44-46) furthermore, specifying the condition of the collectible (col. 3 L 61-66 "condition of the card" etc.) in which the collectibles are offered inherently requires maintaining the condition while the collectibles are offered for sale.)

Woolston fails to teach explicitly that the offering is initial offering and the issuer sets the period of time.

However these differences are only found in the nonfunctional descriptive material "initially" and "set by the issuer" ("offering for sale the collectibles to potential purchasers for a period of time" is not dependent on whether the offering is first time ("initially") and who sets the auction time. In this regard the terms and "initially" and "set by the issuer" are treated as non-functional limitations since they are not functionally involved in the steps recited. The offering, receiving and allocating steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to carryout initial offering for sale collectibles to potential purchasers for a period of time set by the issue because such data (the terms "initially" and "set by the issuer") do not

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functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

While Woolston teaches offering for sale collectibles to potential purchasers for a period of time set by the issuer (the consignment node user who first time offers the collectible prior to resale), he fails to explicitly disclose allocating the offered collectibles among the selected of the potential purchasers.

Bezos in the same field of endeavor teaches a method of facilitating offering of collectibles for sale (see Figure 1 and 2). Bezos teaches allocating the offered collectibles (see col. 2 L 16, example of Dutch auction wherein 10 gold wrist watches are allocated to the bidders who placed 10 highest bids).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Woolston in view of Bezos to incorporate the allocation step as discussed above because, this modification would permit offering of a plurality of collectibles to a plurality of potential purchasers such that the available quantity of the collectibles is distributed among the potential purchasers (bidders) such that maximum economic gain is realized by the issuer of the collectibles.

Claim 72. refer to discussion of allocation step presented in claim 71 analysis in view of Woolston in combination with Bezos.

Claim 34. wherein step b) offers an initial offering of collectibles, and there is further included the step of offering for sale selected of the allocated collectibles on a secondary market at the direction of the purchasers of the allocated collectibles (col. 6 L 41-44, noting that the successful purchaser may offer the purchased goods (allocated collectibles) to other purchasers, this is secondary market).

Claim 35. Wherein the collectibles comprise trading cards (collectibles include trading cards).

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Claims 36-38. wherein said offering of step b) is carried out for a first selected, predetermined period of time, said secondary market is carried out for a second selected period of time, said second period of time is greater than said first period of time (the first and second predetermined period of time may be set by the operators of the consignment node (administrators) per their choice, see col. 6 L 35-37, "predetermined amount of time")).

Claims 39-40 and 42 have been canceled.

Claim 44 and 45. wherein there is further included the step of providing lots of the collectibles for offering for sale (the term "lots" is treated as "a plurality" and therefore it is asserted that this limitation does not patentably distinguish the claimed invention over the prior art as analyzed in the independent claim, therefore, analysis of claim 71 is applicable to these claims (refer also to Woolston, providing collectibles of different kinds at col. 2 L 36-40 as "particular class of goods").

Claim 47 and 48. wherein there is further included the steps of providing a purchaser history database for keeping a record of each purchaser that has placed an order in the course of said initial offering of the collectibles for sale, and updating data indicative of each collectible held in escrow in that record of the purchaser holding the escrowed collectible (see Woolston, col. 5 L 18-45, col. 6 L 45-51, refer to features of the data records).

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9. Claim 73. Woolston teaches a server (Figure 1, computer 10) designed to support an initial offering by an issuer of collectibles of a limited number of the collectibles via a plurality of remote terminals, each remote terminal operable by a potential purchaser (participant terminals 28) to transmit over a network to said server at least one order for the purchase of collectibles being offered for sale (electronic markets for collectibles, col. 2 L 32-36), said server having a memory and being programmed to:

a) store in said memory an indication of the predetermined condition of each of, the price of each of and the limited number of the collectibles (data record for the good for sale (col. 9 L 65- col. 10 L 2) include information on a good or collectible which inherently include condition of a collectible, since condition of a collectible is essential to a potential purchaser, refer to col. 3 L 57- col. 4 L 10, "condition of the card" that Woolston's data record comprises a plurality of collectibles);

b) transmit to the plurality of remote terminals at least one offer for sale of the limited number of collectibles, the one offer having an indication of the predetermined condition of the one collectible, whereby at least first and second potential purchasers are enabled to actuate its remote terminal to transmit at least first and second orders for the one collectible to said server (data record for the good, include "condition" of the collectible (see col. 3 L 61- col. 4 L 2) potential purchasers are participants 28, col. 13 L 45-57, refer also to analysis of claim 71 step a)); and

step c) process the transmitted first and second orders to allocate at least one of the limited number of collectibles among selected of the first and second potential purchasers and create a record in said memory for the successful purchaser (col. 19, database server 806 .. structured to for-sale database 814 and sold database 816), Woolston teaches a process to allocate at least one of the limited number of collectibles among selected of the first and second potential purchasers as a part of this process step (col. 6 L 27-41) refer to allocation of at least one collectible to the highest bidders).

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Woolston fails to explicitly disclose that the offering is initial offering by an issuer of collectibles of limited number of the collectibles and that each collectible offered for sale has uncirculated condition.

However these differences are only found in the nonfunctional descriptive material (the terms "limited number", "uncirculated condition") which is treated as non-functional limitations since they are not functionally involved in the steps recited. The storing, transmitting and processing functions recited in limitations a), b) and c) do not depend on type of offering or the nature of the condition of the collectible. The functions performed by the server would be performed the same regardless of these non-functional data.

Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill to have the server designed to support any type of offering of collectibles of any condition because such data (the terms "initially" and "set by the issuer") do not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

While Woolston teaches the server designed to support an initial offering by an issuer of a limited number of collectibles each having an uncirculated condition as explained above, he fails to explicitly disclose the processing of the orders to allocate at least one of the limited number of collectibles among the selected of the first and the second of the potential purchasers.

Bezos in the same field of endeavor teaches a server for facilitating offering of collectibles for sale (see Figure 1 and 2). Bezos teaches the server as incorporating allocating the offered collectibles (see col. 2 L 16, example of Dutch auction wherein 10 gold wrist watches are allocated to the bidders who placed 10 highest bids).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the server of Woolston in view of Bezos to incorporate the allocation step as

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discussed above because, this modification would permit offering of a plurality of collectibles to a plurality of potential purchasers such that the available quantity of the collectibles is distributed among the potential purchasers such that maximum economic gain is realized by the issuer of the collectibles.

Claims 74-76. wherein the collectibles comprise trading cards; ..in mint condition; uncalculated trading cards (Woolston collectibles, col. 2 L 30-35 "Collectible goods").

Claims 59 and 60. wherein said server is programmed to respond to each order received from one of the purchasers to update said record of the one purchaser(inherent to sold database 816, shipped database 820 col. 19 L 36-46), refer to analysis provided in paper 9 for these claims).

Claim 61. wherein said server is programmed to respond to messages ..to place in escrow selected of their collectibles that were allocated ..by updating records ..of purchasers (see Woolston, col. 5 L 18-45, col. 6 L 45-51, refer to features of the data records). Note that the phrase "to place in escrow selected of the ..initial placement" is recited as intended function and not given patentable weight.

10. Claim 77. Woolston teaches a method for sale of collectibles of a predetermined condition on a primary market and on a secondary market, said method comprising the steps of.

a) offering for sale to one or more prospective purchasers an initial placement of one or more selected collectibles on the primary market (as disclosed in col. 5 and 6 in auction mode a pawn shop operator offers to potential purchasers one or more Rolex watches in an auction for a predetermined time set by the operator, this offering constitute a primary market where the pawn shop operator offers the collectible watches in an initial placement);

b) receiving orders from prospective purchasers on selected of the collectibles (col. 5 and 6, receiving bids from the ordering purchasers, and col. 6 L 27-37 consignment node mode electronically scans..the participant for bids and accepts highest bid.. the consignment node repeats this process until no higher bid is received, this recitation clearly teaches that the

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offered collectibles are allocated to highest bidders in order
the bids are received)

c) offering for sale at the direction of the one successful
purchaser selected of the allocated collectibles on a secondary
market (col. 6 L 25-41 "post a new participant defined offer");
and

d) maintaining the predetermined condition of the
collectibles during steps a), b) and c), whereby the allocated
collectibles are of the predetermined condition (this
limitation is interpreted as storing or safeguarding the
collectibles as deemed appropriate by the entity holding the
collectibles, such as the operator of the collectible nodes or
the owner of the collectibles, therefore this step is inherent
in Woolston reference (see col. 2 L 44-46) furthermore,
specifying the condition of the collectible (col. 3 L 61-66
"condition of the card" etc.) in which the collectibles are
offered inherently requires maintaining the condition while the
collectibles are offered for sale.);

and

e) facilitating steps a)-c) by a programmed computer (see
Figures 1-3 which depict implementation of the method).

Woolston fails to explicitly disclose that the offering for
sale in an initial placement of one or more collectibles.

However these differences are only found in the
nonfunctional descriptive material (the offering being "an
initial placement") which is treated as non-functional
limitations since this limitation not functionally involved in
the steps recited. The offering, receiving, maintaining and
facilitating steps recited in limitations a) through e) do not
depend on whether the offering is an initial placement or not.
These functions a) through e) would be performed the same
regardless of the data. Thus, this descriptive material
(initial placement) will not distinguish the claimed invention

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from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill to have offering for sale carried out in an initial placement for more or more collectibles using Woolston because such data (the term such as initial placement) do not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

While Woolston teaches a method for sale of collectibles of a predetermined condition as explained above, he fails to explicitly disclose the step of allocating as per claim 77.

Bezos in the same field of endeavor teaches a method for facilitating offering of collectibles for sale (see Figure 1 and 2). Bezos teaches the server as incorporating allocating the offered collectibles (see col. 2 L 16, example of Dutch auction wherein 10 gold wrist watches are allocated to the bidders who placed 10 highest bids).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Woolston in view of Bezos to incorporate the allocation step as discussed above because, this modification would permit offering of a plurality of collectibles to a plurality of potential purchasers such that the available quantity of the collectibles is distributed among the potential purchasers such that maximum economic gain is realized by the issuer of the collectibles.

Claim 78. Woolston explicitly teaches limiting the number of collectibles of one kind to be offered for sale on the primary market. (see col. 5 L 25-33 "many Frank Robinson cards available", "buying and selling the collectibles" and "will establish Frank Robinson card", alternatively also refer to col. 5 and 6, the pawn shop operator ..may have several Rolex watches he wishes to auction).

Claim 79. wherein the collectibles comprise trading cards (refer to claim 78 analysis).

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Claim 80. said offering for sale on the primary market is carried out for a selected, predetermined period of time (see col. 6 L 34+ "predetermined amount of time").

Claim 81 and 82. predetermining said number of collectibles to be offered for sale on the primary market before said step a) of offering for sale on said primary market begins (col. 5 and 6, the pawn shop operator ..may have several Rolex watches he wishes to auction).

Claim 83 and 84. the step of allocating further compares said number of collectibles with said predetermined number of collectibles and ..reduces the number of collectibles to be allocated in accordance with a predefined algorithm (see Bezos, "Dutch Auction").

Claims 86-87. wherein there is further included the step of providing lots of the collectibles for offering for sale on the primary market (lots of collectibles is not patentably distinguishable and is inherently covered by Woolston, as an example the col. 5 recites "consignment node may have many Robinson cards").

Claim 88. there is further provided the step of enabling the one successful purchaser of collectibles on the primary market to elect to have an offering for sale or to facilitate an administrator to hold its purchased collectibles in escrow (col. 5 L 18-25 and col. 12 L 59-66, "it is understood that the purchasing participant may elect to leave the good at the consignment node or post a new offer..").

Claim 89. wherein the administrator holds the purchased collectibles of the successful purchasers in a benign environment (col. 17 L 66 - col. 18 L 5, "ship the good to a long term storage facility").

Claim 90. wherein the one successful purchaser elects to offer for sale its purchased collectibles on the secondary market (col. 5 L 18-25 and col. 12 L 59-66, it is understood

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that the purchasing participant may elect to leave the good at the consignment node or post a new offer...).

Claim 91. wherein the enabling step enables the one successful purchaser to request the administrator to deliver the purchased collectibles to the corresponding one successful purchaser (Fig. 7 block 414, "shipping").

Claim 92. there is further included the steps of providing a purchaser history database for keeping a record of each purchaser that has placed an order in the course of said offering for sale on said primary market, and updating data indicative of each collectible and held in escrow in that record of the purchaser holding the escrowed collectible (refer to col. 14 L 57-63, "sold database" and "account database" in view of "bailee relationship" discussed at col. 17 L 55- end).

Claim 93. purchaser's orders received in step b) includes a number of the collectibles wanted by the purchaser (refer to Bezos col. 2 L 22-35 "Dutch Auction"). For combination with Woolston please refer to independent claim 77.

Claim 94. there is further included the step of predefining the number of collectibles before carrying out said step of offering for sale on the primary market ((refer to Bezos col. 2 L 22-35 "Dutch Auction"). For combination with Woolston please refer to independent claim 77.

Claim 95. there is further included the step of providing a purchaser history database for keeping a record for each purchaser that has placed an order in the course of said offering for sale on the primary market, and updating for each order data indicative of said number of collectibles in that record of the purchaser placing that order (col. 14 L 57-63, database of goods for sale).

11. Claim 96. Woolston teaches a method of facilitating an issuer of collectibles to manage an initial offering for the sale of a limited number of the collectibles of a predetermined condition, said method implemented by a computer programmed to effect the steps of:

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a) storing in a memory the determined condition of and the limited number of the collectibles (col. 5 and 6, limited number of Rolex watches are auctioned by a pawnshop operator of a consignment node, the watch records include condition because the condition of the Rolex watches (subjective information such as condition) is stored in consignment node database, see col. 3 L 61+);

b) communicating to potential purchasers a message offering to sell the collectibles and specifying the determined condition and the limited number of collectibles offered for sale (since the pawnshop operator of a consignment node auctions several Rolex watches, he advertises this information including items being auctioned to prospective per col. 6 L 3-6)

c) receiving orders from the ordering potential purchasers (col. 6 L 21+ refer to bids received from the participants.);

While Woolston teaches a method of facilitating an issuer of collectibles (any participant may be an issuer to manage an initial offering for the sale of a limited number of the collectibles of a predetermined condition, he fails to explicitly disclose that the communicated message pertains to selling a plurality of collectibles and that the message having the limited number of the collectibles, and allocating the offered collectibles among the selected of the potential purchasers.

Bezos in the same field of endeavor teaches a method of facilitating offering of collectibles for sale wherein a message including the limited number of collectibles, the condition of the collectibles is communicated to potential purchasers. Bezos, further teaches allocating the offered collectibles among selected of the ordering potential customers (see Figure 1 and 2). Bezos teaches allocating the offered collectibles (see col. 2 L 16, example of Dutch auction wherein 10 gold wrist watches are allocated to the bidders who placed 10 highest bids).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Woolston in view of Bezos to incorporate the message specifying the limited number of the collectibles and the allocation step as discussed above because, this modification would permit offering of a plurality of collectibles to a plurality of potential purchasers such that

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the information on available quantity and other pertinent information of the collectibles communicated to the potential purchasers and further distributed among the potential purchasers (bidders) such that maximum economic gain is realized by the issuer of the collectibles.

Claims 97 and 98. wherein there is further included the step of creating a record in the memory for each successful purchaser to which collectibles were allocated..., storing the determined condition of the collectibles (sold database col. 14 L 57-63).

Claims 99-101. collectibles comprise trading cards (trading cards broadly treated as collectibles).

Claims 110. Woolston teaches a server for facilitating an issuer of collectibles to manage an offering of the collectibles of a determined condition for sale, said server having a memory and being programmed to:

(REFER TO Fig. 1, computer 10, network, participant terminal 28)

- a) store the determined condition of the collectibles that are offered for sale (Fig. 13, section 956 "condition", col. 3 L 61-66, condition of the card);
- b) transmit over a network from the server to selected of a plurality of potential purchaser stations an initial offering for a predetermined time of a limited number of the collectibles for sale and bearing an indication of the condition of the collectibles (col. 5 L 65+ identifies the Rolex watches as a collective, to prospective participants for a predetermined amount of time, col. 6, see auction process);

Woolston fails to teach explicitly that the offering of the collectibles is initial offering of collectibles of a determined condition.

However these differences are only found in the nonfunctional descriptive material "initial offering" and "determined condition". None of the steps performed by the program on the server depend upon whether the offering is an

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initial offering or collectibles have "determined" condition or otherwise. In this regard the terms and "initial offering" and "determined" are treated as non-functional limitations since they are not functionally involved in the steps recited. The storing, transmitting, allocating and creating steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to carryout initial offering for sale collectibles of a predetermined condition for sale using the server disclosed in Woolston because such data (the terms "initial offering" and "determined condition") do not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

While Woolston teaches a server for facilitating an issuer of collectibles to manage an initial offering of the collectibles of a determined condition for sale, he fails to explicitly disclose that the server also performs the allocating the offered collectibles among the selected of the responding purchasers.

Bezos in the same field of endeavor teaches a method of facilitating offering of collectibles for sale. Bezos teaches allocating collectibles to responding purchasers in response to the purchasers receiving an initial offering of the collectibles offered for limited time (see Figure 1 and 2). Bezos teaches allocating the offered collectibles (see col. 2 L 16, example of Dutch auction wherein 10 gold wrist watches are allocated to the bidders who placed 10 highest bids).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Woolston in view of Bezos to incorporate the allocation step as discussed above because, this modification would permit offering of a plurality of collectibles to a plurality of potential purchasers such that the available quantity of the collectibles is distributed among the potential purchasers (bidders) such that maximum economic gain is realized by the issuer of the collectibles.

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Claim 111. wherein the server is further programmed to facilitate an administrator to maintain at least the limited number of collectibles in the determined condition during the offering for sale of the collectibles, and the message comprises a guarantee made by the administrator that the limited number of collectibles initially offered for sale are of the determined condition indicated by the message (col. 6 "may elect direct delivery of the goods", the administrator is the pawn shop owner).

Claim 112. wherein the server is further programmed to store the number of the collectibles allocated to a selected purchaser into the record of that purchaser (refer to Fig. 12 Sold and Shipped database server).

Claim 113. wherein the server is programmed to receive and process commands from the selected purchasers to which at least one collectible was allocated to place its allocated one collectible for sale to other potential purchasers (col. 12 L 59-66, re-post and col. 6 L 41-44 "post the good on the electronic market at a new participant determined price").

Claim 114. wherein the server is programmed to receive a command from the one selected purchaser to which the one collectible was allocated to transmit the allocated collectible to the selected purchaser in a protective case, whereby the condition of the allocated collectible is maintained (inherent to shipment as discussed col. 12 L 56-59).

27. Claim 131. Woolston teaches a method of managing the initial offering for sale of collectibles, the method comprising the steps of:

steps a) -c) have been discussed in claims 71, 73 and 77.
d) provide each successful purchaser the option to remove its collectibles, in the same predetermined condition, from the protective environment or to continue to keep the collectibles in the protective environment (see at least col. 17 L 60- col. 18 L 14 "It is also understood that the bailee agreement may be for a predetermined time and/or require the posting terminal user to hold a good for a predetermined time and/or ship the good to a long term storage facility to ease the bailee burden of posting terminal users where a participant elects to hold

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legal ownership but keep the good available in the electronic market place for the long term.");

at least said steps b) - d) being implemented at least in part by a programmed computer (discussed before).

Claim 132. wherein if a successful purchaser opts to remove its collectibles, the collectibles to be removed are disposed in a protective housing (inherent to shipment of collectibles, step 414, Fig. 414).

28. Claim 133. Woolston teaches a method of facilitating an issuer of collectibles to manage the sale of at least one collectible from a first purchaser to a second purchaser, said method comprising the steps of

a) - c), e) and f) refer to analysis of claims 110 and 115

d) transferring the ownership of the one collectible from the first purchaser to the second purchaser by deleting the one collectible from the first record and adding the one collectible to the second record (Col. 18 L 63 - Col. 19 L 15, transferring legal title);

Claim 134. wherein step f) keeps the one collectible in the benign environment during at least steps b), c) and d) (long term storage facility, Col. 17 L 2- Col. 18 L 5).

Claim 135. wherein step d) further transfers the ownership of the one sold collectible from the second purchaser to a third purchaser, and step c) further constructs the data base with a third record for the third purchaser transfer of ownership of goods, Fig. 9, Col. 18 L 63 - Col. 19 L 15, transferring legal title).

Claim 136. wherein step d) further transfers the ownership of the one collectible from the second purchaser to the third purchaser by deleting the one collectible from the second record and adding the one collectible to the third record (transfer of ownership of goods, Fig. 9, col. 18 L 63 - col. 19 L 15, transferring legal title)

29. Claim 137. Woolston in view Bezos teaches a method of facilitating at least one administrator to manage collectible to at least first and second purchasers on a primary market and a secondary market respectively. (refer to analysis of claim 77).

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Claims 138 and 139. (wherein step f) of maintaining the condition comprises the step benign environment, encapsulating the one collectible in a protective housing (inherent to long term storage as discussed previously).

Claims 140. wherein there is a second administrator, the second administrator having a secondary market, and there is further included the step of determining whether the protective housing has been tampered with and, if not, facilitating the second administrator to offer the one collectible of the determined condition for sale on the secondary market of the second administrator (Col. 3 L 36-41, "trusted means").

Claims 141. wherein the one administrator continues to guarantee the condition of the one collectible as long as the protective housing remains in tact (customary business practice).)

12. Claims 52, 62-68, 69, 104-107 and 115-130 rejected under 35 U.S.C. 103(a) as being unpatentable over Woolston (US 6,266,651).

Claim 52: Woolston, fails to recite that the ordering activity includes receiving a number of said received orders and incrementing the number of orders in receipt of each order.

Official Notice is taken that maintaining records of ordering activity for orders received for goods offered for sale, including records of number of received orders and incrementing number of orders is old and well known in merchandising art.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the ordering activity include the recited features because it would provide a measure of the demand for the offered collectible versus its' availability.

Claims 104-107. Woolston fails to explicitly disclose the manner in which the condition of the collectibles is maintained whether by placing a plurality of the collectibles in a benign environment or by placing in a protective casing.

Official Notice is taken that various methods of protecting collectibles such as protective casing, tamper evident casing

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and benign environment as recited in the instant claims are old and well known.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the condition of the collectibles maintained by placing in the collectibles in a protective casing, tamper evident casing and benign environment as deemed appropriate.

All other limitations have been analyzed as per claim 102 analysis.

Claim 115. Woolston teaches a method of facilitating an issuer of collectibles to manage the sale and distribution of at least one collectible from a source to at least one purchaser, said method comprising the steps of

- a) offering the one collectible of a predetermined condition for sale per Woolston, offering of collectibles is communicated by a consignment node to plurality of participants (customers and collectors) col. 2 electronic markets for collectible goods see col. 2 L27-57);
- b) effecting the sale of the one collectible of the determined condition (see at least col. 12 L 20-24, transfer of the ownership of the collectibles);
- c) and f) receiving a request of the one purchaser to distribute from the source its one sold collectible and responding to the request by encapsulating the one sold collectible, whereby the determined condition of the one sold collectible is continued to be maintained (col. 12 L 56-59, the participant elects to ship goods..., encapsulating is a choice of the seller for shipping);
- d) maintaining the predetermined condition of the one collectible at least during steps a) and b) until the one collectible is encapsulated, whereby the issuer is enabled to guarantee the condition of the encapsulated collectible (this limitation is interpreted as storing or safeguarding the collectibles as deemed appropriate by the entity holding the collectibles, such as the operator of the collectible nodes or the owner of the collectibles, therefore this step is inherent in Woolston reference (see col. 2 L 44-46) furthermore, specifying the condition of the collectible (col. 3 L 61-66 "condition of the card" etc.) in which the collectibles are offered inherently

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requires maintaining the condition while the collectibles are offered for sale.) to enable to guarantee the condition of the collectibles, No patentable weight is given to limitation "until the one collectible is encapsulated, whereby.." since the maintaining step is performed during steps a) and b).

e) said steps a) - c) being implemented by a programmed computer ((see Figures 1-3 which depict computer implementation of the method) .

f) distributing the encapsulated collectible from the source. (see col. 12 L 55-59, shipment).

Woolston fails to explicitly teach that the request of the purchaser is responded to by encapsulating the sold collectible.

Official Notice is taken that encapsulating collectibles for shipment to a purchaser of the collectible is old and well known in the art of collectibles.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the collectible encapsulated in response to a purchase request because this would ensure that the collectibles maintains it's specified or guaranteed condition while in the shipment.

Claim 116. wherein the step d) of maintaining keeps the plurality of collectibles at the source in a protective environment, whereby their conditions are maintained (long term storage, col. 17 L 60 - col. 18 L 5).

Claim 117. wherein the request of the one purchaser alternatively directs that the one sold collectible be distributed from the source to the one purchaser or the sold collectible is kept in its determined condition at the source (col. 12 L 59-66, leave the good at the consignment node).

Claim 118. further including the step of alternatively maintaining the collectibles at the source in a protective environment after the sale of the one collectible or encapsulating the one collectible after its sale, whereby the plurality of collectibles are maintained at their determined

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conditions, whether they are kept at the source or distributed to the one purchaser (long term storage, col. 17 L 60 - col. 18 L 5).

Claim 119. Woolston teaches a method of managing the sale of collectibles on each of a primary market and a secondary market, each of the collectibles being of a predetermined condition (col. 3 L 61-66), said method comprising the steps of:

- a) offering the collectibles of given conditions for sale on the primary market to potential purchasers (refer to col. 2 L 36-40, "market maker for a particular class of goods", and "establish the dominant market for collectible antique pens")
- b) facilitating one or more original purchasers to purchase the collectibles of given conditions on the primary market and to offer to a subsequent purchaser at least one purchased collectible of a given condition on the secondary market (col. 12, L 59-66 Re-post the collectible and col. 3 L 25-41); and
- c) facilitating one or more original or subsequent purchasers to offer for sale on the secondary market one or more sold collectibles to one or more original or subsequent purchasers (col. 3 L 25-41 plurality of participants buying and selling collectibles..),

said steps a) - c) being implemented by a programmed computer (analyzed as in claim 77).

Woolston fails to teach explicitly that the collectibles are of "given conditions" and the market where offering occurs is a "primary market".

However these differences are only found in the nonfunctional descriptive material "given conditions" and that markets where the offering occur are "primary" and "secondary" markets.

The offering and the facilitating are performed regardless of characterization of the condition of collectibles and/or the markets. The claim does not set apart the primary market from the secondary market other than the sequencing of the offering of the collectibles in that the collectibles are offered to one or more "original" (first time) purchasers who subsequently offer the collectibles to other purchasers.

Thus, this descriptive material will not distinguish the claimed invention from the prior art of Woolston in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ

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401, 404 (Fed. Cir. 1983), In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made offer the collectibles on the primary market and subsequently offer the collectibles in the secondary market as per the claimed invention because the terms "given conditions" and "primary" and "secondary" (market) do not functionally relate to the steps in the method claim and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Claim 120. a step of determining the predetermined condition of each of the collectibles on sale on the primary market (col. 3 L 61-66, presence of condition of the collectible(s) inherently teaches the determining of the predetermined condition).

121 and 122. further including the step of maintaining the predetermined condition of the collectibles at a source thereof in a benign environment and

wherein the step of maintaining keeps the collectibles offered for sale on the source in the primary and secondary markets at the predetermined condition.

(col. 17 L 66- col. 18 L 5, long term storage facility).

Claim 123. Woolston teaches a method of managing a sale of at least one collectible to at least one original purchaser on a primary market, a resale of the one sold collectible to at least one subsequent purchaser on a secondary market, and keeping track of these sale and resale of the one collectible respectively to the one original purchaser and to the one subsequent purchaser on a data base, (refer to analysis of prior claims 77-95) said method comprising the steps of

a) responding to the sale on the market of the one sold collectible to the one original purchaser to create a record in the data base for receiving data identifying the one sold collectible and the one original purchaser who owns the one collectible (refer to Fig. 12 , "sold" and "fore sale" database), col. 14 L 57-63);

b) responding to the resale on the market of the one resold collectible to the one subsequent purchaser to create a record

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in the data base for receiving data identifying the one subsequent purchaser of the one resold collectible; and c) said steps a) and b) being implemented by a programmed computer(refer to Fig. 12 , "sold" and "fore sale" database), col. 14 L 57-63);

Woolston fails to explicitly recite the purchasers as "original" or "subsequent" purchasers and the characterize sale and resale of the collectible in terms of "primary" and "secondary" markets.

However these differences are only found in the nonfunctional descriptive material, i.e. the purchaser being an "original purchaser" and the markets where the offering occur as being the "primary" and "secondary" markets.

The offering and the facilitating are performed regardless of characterization of the condition of collectibles and/or the markets. The claim does not set apart the primary market from the secondary market other than the sequencing of the offering of the collectibles in that the collectibles are offered to one or more "original" (first time) purchasers who subsequently offer the collectibles to other purchasers.

Thus, this descriptive material will not distinguish the claimed invention from the prior art of Woolston in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made offer the collectibles on the primary market and subsequently offer the collectibles in the secondary market as per the claimed invention because the terms "given conditions" and "primary" and "secondary" (market) do not functionally relate to the steps in the method claim and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Claim 124. wherein the sale of the one collectible includes the offering of collectibles to potential purchasers and receiving orders from the ordering potential purchasers, and said step a) responds to the receiving of each of the orders of potential purchasers to create a record in the data base for receiving data identifying one of the potential purchasers (refer to Fig. 12 , "sold" and "fore sale" database), col. 14 L 57-63);

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Claim 125-128. further including a step of maintaining the condition of the one collectible (refer to claim 71 step c) and claims 104-107 analysis).

Claim 129. further including a step of receiving and responding to a request of the original purchaser to forward the one sold collectible and to encapsulate the one sold collectible, whereby the condition of the forwarded one collectible is maintained (col. 12 L 59-66 and col. 18 L 1-5, long term storage).

Claim 130. further including a step of receiving and responding to a request of the subsequent purchaser to forward the one resold collectible to the subsequent purchaser and to encapsulate the one resold collectible, whereby the condition of the forwarded one collectible is maintained (col. 12 L 56-59, participant elects to ship goods).

Claim 62: Woolston discloses a method of managing the sale of uncirculated collectibles (goods for consignment node market, see col. 10 L 29-32) and maintenance of the collectibles in their uncirculated condition in a protective environment, said method carried out on a programmed computer (see Figure 1 and 3) to effect the following steps:

- a) inputting to the programmed computer data as to the identity of a plurality uncirculated collectibles **maintained in the protecting environment to keep the maintained collectibles in their uncirculated condition;** (col. 2, L 30-40, refer to "electronic markets for collectible goods" which inherently teaches the recited step and col. 9 L 66- col. 10 L 32 which explicitly teaches procedure to "build a database of goods" by inputting data regarding identity of the goods (uncirculated collectibles). Note the posting is described for each good and repeated for a plurality of goods (uncirculated collectibles)
- b) communicating and initial offering for sale of the uncirculated collectibles to prospective purchasers;

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(refer at least to an auction process described at col. 10 L 40-46 which recites an offering of items (uncirculated collectibles) and database of goods to be auctioned to auction participants who are prospective buyers, note that the term "initial offering" is treated as inherent to the auction in which the collectibles are auctioned for the first time)

c) receiving and accepting a plurality of received orders whereby corresponding purchasers purchase the uncirculated identified collectibles; (see col. 10 L 40-46 the process of successively offering the goods to the auction participants 258 from whom the orders (bids) for the goods are received and accepted)

and

d) communicating with each of the purchasers who has purchased uncirculated collectibles a message prompting each purchasers to effect selected of the following:

- i. to keep their purchased uncirculated identified collectibles in the protective environment;
- ii. offer for sale on the secondary market to the prospective purchasers the uncirculated identified collectibles that had been purchased on the primary market, and
- iii. forward the uncirculated identified collectibles to the corresponding one of the purchasers.

(refer to col. 55-66, "if the participant has elected to ship goods" corresponds to step iii., "it is understood that the participant may elect to leave the good or collectible at the consignment node" corresponds to step i., and "post a new offer or reserve price" corresponds to step ii.)

Woolston fails to teach explicitly that the collectibles are "**maintained in the protecting environment to keep the maintained collectibles in their uncirculated condition**"

However these differences are only found in the nonfunctional descriptive material "**maintained in the protecting environment to keep the maintained collectibles in their uncirculated condition**"

None of the steps performed by the program on the server depend upon the manner in which the collectibles are maintained. In this regard the aforementioned limitation is treated as non-functional limitation or as non-functional descriptive material

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since it is not functionally involved in the steps recited. The inputting, communicating, receiving and accepting steps would be performed the same regardless of the limitation. Thus, this non-functional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to carryout the recited inputting, communicating, receiving and accepting steps per claimed invention because such data (the terms "initial offering" and "determined condition") do not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Notwithstanding the assertion that Woolston explicitly teaches the communicating step which prompts the purchasers of the collectibles the selected of the actions listed as i) - iii), it is also noted that the limitation "prompting such purchasers to effect selected of the following.." is also recited in the claim as non-functional descriptive material and alternatively rejected on the ground of analysis similar to that presented in the foregoing paragraph.

Claim 63. upon acceptance of the order ..data reflected of the accepted is stored in a memory. (see at least col. 12 45-48, ownership entry).

Claim 64. There is included a memory comprising a plurality of storage locations and upon acceptance of an order from a particular purchaser a corresponding one of the storage locations is dedicated to the particular purchaser and the data reflective of the accepted order is stored in the corresponding storage location (see at least col. 12 45-48, ownership entry).

Claim 65. Each of the storage location stores the purchasing activity of its purchaser (see at least col. 12 45-48, ownership entry).

Claim 66. There is further included the step of updating the purchasing activity of its purchaser in response to the purchase (see at least col.14 L 12+ "transactions on buying and selling

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of goods", Col. 19 L 36-46 refer to tracking of participant accounts).

Claim 67. responding to an instruction from a particular purchaser to communicate with each of the prospective purchaser an offer to sell on the secondary market the uncirculated collectibles.

(col. 12 L 60-61 "re-post the good or collectible")

Claim 68. Prompting each search purchaser to alternatively request that its uncirculated collectibles be forwarded to the corresponding purchaser.

(col. 12 L 55-59 "the participant has elected to ship goods")

Claim 69. Woolston teaches a method of managing a server (to support a plurality of purchasers to transmit from corresponding remote stations over a network to the server orders for uncirculated collectibles and protective environment to receive and maintain the uncirculated collectibles in their uncirculated condition), the method carried out by the programmed server to effect the steps as follows:

a) generating and transmitting from the server an initial offering for sale the uncirculated collectibles to prospective purchasers (refer at least to an auction process described at col. 10 L 40-46 which recites an offering of items (uncirculated collectibles) and database of goods to be auctioned to auction participants who are prospective buyers, note that the term "initial offering" is treated as inherent to the auction in which the collectibles are auctioned for the first time, refer also to process of auctioning the goods (uncirculated collectibles) as explained in detail);

b) receiving and accepting a plurality of received orders from corresponding ones of the ordering purchasers whereby corresponding purchasers purchase the uncirculated collectibles;

(see col. 10 L 40-46 the process of successively offering the goods to the auction participants 258 from whom the orders (bids) for the goods are received and accepted)

and

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c) generating and transmitting from the server to each of the purchasers..messages prompting these purchasers to effect selected of the following:

i) keep their purchased uncirculated collectibles in a protective environment, and

ii) offer for sale on a secondary market to the prospective purchasers the uncirculated collectibles that have purchased on the primary market (refer to col. 55-66, "if the participant has elected to ship goods" corresponds to step iii., "it is understood that the participant may elect to leave the good or collectible at the consignment node" corresponds to step i., and "post a new offer or reserve price" corresponds to step ii.)

Notwithstanding the assertion that Woolston explicitly teaches the communicating step which prompts the purchasers of the collectibles the selected of the actions listed as i) and ii), it is also noted that the limitation "prompting such purchasers to effect selected of the following.." is also recited in the claim as non-functional descriptive material and alternatively rejected on the ground of analysis similar to that presented in the foregoing paragraph.

Allowable Subject Matter

12. Claim 70 is allowed.

13. Claims 85, 108, 109, 54, 55 are objected to as being dependent upon a rejected base claim(s), but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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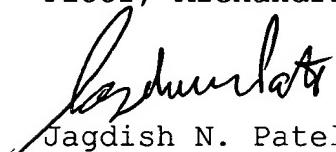
Conclusion

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. **Draft faxes may be submitted directly to the examiner at (703) 746-5563.**

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7th Floor, Alexandria VA 22202.



Jagdish N. Patel

(Primary Examiner, AU 3624)

5/2/05